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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/558,755
Filing Date: April 21, 2000
Appellant(s): HOSEA ET AL.

Eamon J. Wall
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 21, 2005 appealing from the Office action mailed November 12, 2003.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,285,987	Roth et al	09-2001
6,208,975	Bull et al	03-2001
6,049,777	Sheena et al	04-2000
6,298,348	Eldering	10-2001
6,295,061	Park et al	09-2001
6,366,298	Haitsuka et al	04-2002

(9) Grounds of Rejection

The Examiner notes that the statements of rejection in the Final rejection contained typographical errors that have been corrected below, none of which change the merits or substance of the rejections.

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 7-9, 11-14, 20, 22-24, 26-57, and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975).

Claims 3-6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975).

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Sheena et al (USPN 6,049,777).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further in view of Eldering (USPN 6,298,348).

Claims 21 and 58-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Park et al (USPN 6,295,061).

Claim 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Haitsuka et al (USPN 6,366,298).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 7-9, 11-14, 20, 22-24, 26-57, and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987) in view of Bull et al (USPN 6,208,975).

As per claim 1, Roth et al disclose a method of profiling a Web user (via view-opportunity/view-op, see column 2, lines 11-14), comprising: providing profiles on a plurality of Web sites (web site demographics, see column 9, lines 13-14 and column 18, lines 51-53); using a computer to monitor which of said plurality of Web sites the user accesses (see column 2, lines 14-19) and using a computer to develop a profile of the user based on the profiles of the Web sites accessed by the user (updates information via view-op, see column 4, lines 26-31). Roth et al does not explicitly disclose using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites. Bull et al discloses the user's web viewing patterns monitored and matched against software text agents to match a profile (see column 15, lines 14-19), including user demographics. Both Roth and Bull are concerned with effectively profiling users, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include inferring user demographics based on web sites visited in Roth, as seen in Bull, thereby increasing the flexibility and robustness of the Roth system in determining the profiles of its users.

As per claim 2, Roth et al disclose demographic data (see column 2, lines 14-19).

As per claims 7-8, Roth et al disclose psychographic data including data on the user's interests (viewer history data, see column 8, lines 65-67).

As per claim 9, Roth et al disclose providing a database associating each of said plurality of Web sites with demographic characteristics of known persons who have accessed said sites (database 16D, see column 18, lines 51-53).

As per claims 11-12, Roth et al disclose identifying URL requests made by the user while Web surfing and identified at an Internet Service Provider (ISP) point of presence (see column 8, lines 20-26 and figure 4, table 408).

As per claim 13, Roth et al disclose URL requests associated with a user and stored in a database (see column 4, lines 26-31).

As per claim 14, Roth et al disclose updating an existing user profile (see column 4, lines 30-31).

As per claim 20, Roth et al disclose delivering selective advertising to said user based on his or her profile (see column 4, lines 58-61).

Claims 22, 24, 26-29 are rejected based upon the rejection of claims 1, 9, 13, 19-21, respectively, since they are the computer claims corresponding to the method claims. Further, see column 6, lines 53-56.

As per claim 23, Roth et al disclose the computer comprising an ISP point of presence server (ISP 712 connected to servers 716, see Figure 7).

As per claim 30, Roth et al disclose the computer cooperates with a computer operated by the user to display an advertisement on a display of the computer operated by the user, said advertisement being selected from a plurality of advertisements based on the profile of the user (see column 4, lines 58-61).

As per claim 31, Roth et al disclose a system for profiling a Web user and delivering selective advertising to the user, comprising: a database containing profile data on a plurality of Web sites (web site 14, see Figure 1); means for monitoring which of said plurality of Web sites the user accesses; means for developing a

profile of the user using profile data of the Web sites accessed by the user (see column 4, lines 44-49); means for matching the user with an advertisement based on the developed user profile; and means for delivering said advertisement to the user (see column 4, lines 58-61). Roth et al does not explicitly disclose using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites. Bull et al discloses the user's web viewing patterns monitored and matched against software text agents to match a profile (see column 15, lines 14-19), including user demographics. Both Roth and Bull are concerned with effectively profiling users, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include inferring user demographics based on web sites visited in Roth, as seen in Bull, thereby increasing the flexibility and robustness of the Roth system in determining the profiles of its users.

As per claim 32, Roth et al disclose a system for inferring a profile of a person using a client computer for Web surfing, and delivering selective advertising to the person based on his or her profile (see Figure 7), comprising: a local server computer linked to said client computer for providing Internet access (client browser 711), said local computer including means for monitoring which of said plurality of Web sites the person accesses, means for developing a profile of the person based on predetermined profile data of the Web sites accessed by the person, and means for delivering an advertisement to the client computer (server 716); and a remote server computer linked to said local server computer and including means for matching an advertisement received from an advertiser to said person based on his

or her profile, and means for transmitting said advertisement to said local server computer for eventual transfer to the client computer (server 730). Roth et al does not explicitly disclose using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites. Bull et al discloses the user's web viewing patterns monitored and matched against software text agents to match a profile (see column 15, lines 14-19), including user demographics. Both Roth and Bull are concerned with effectively profiling users, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include inferring user demographics based on web sites visited in Roth, as seen in Bull, thereby increasing the flexibility and robustness of the Roth system in determining the profiles of its users.

As per claim 33, Roth et al disclose a local database containing data associating a plurality of Web sites with predetermined profile data on said sites (database 16B, see Figure 1).

As per claim 34, Roth et al disclose a master database containing data associating a plurality of Web sites with predetermined profile data on said sites, and wherein data in said master database is periodically synchronized with said local database. Database 16B (Figure 1) is the master and local database and synchronization is inherent.

As per claim 35, Roth et al disclose the local server computer and the remote server computer linked by an Internet connection (inter-computer network, see column 6, lines 56-58).

As per claim 36, Roth et al disclose means for delivering URL string pointing to the advertisement (see column 12, line 53).

Claims 37-50 are rejected based on the rejections of claims 2-8, 11-12, and 15-19, respectively as being the system claims corresponding to the method claims.

As per claim 51, Roth et al disclose means for monitoring how long the advertisement is displayed to the user (view-time, see column 8, lines 61-62).

As per claim 52, Roth et al disclose means for monitoring whether the user has clicked-through the advertisement (see column 8, lines 1-2).

Claim 53 is rejected based upon the rejection of claim 1, since it is the computer readable medium claim corresponding to the method claim.

As per claims 54-55, Roth et al disclose the medium comprises a removable memory (see column 9, lines 19-21), and a signal transmission (see column 10, lines 34-36).

As per claim 56, Roth et al disclose computerized method of profiling Web users and selectively delivering content to said users, comprising: providing profiles of a plurality of Web sites (web site demographics, see column 9, lines 13-14 and column 18, lines 51-53), said profiles including demographic data of persons known to have visited said sites (see column 9, lines 1-14); electronically monitoring which of said plurality of Web sites each of said users visits; developing a profile of each user based on the profiles of the Web sites visited by the user (see column 4, lines 44-49); identifying a target group of said users who would be receptive to receiving certain content based on their profiles; and selectively delivering the content to users

of that target group (see column 13, lines 53-56). Roth et al does not explicitly disclose using a computer to develop a profile of the user by inferring user demographics based on the profiles of the Web sites. Bull et al discloses the user's web viewing patterns monitored and matched against software text agents to match a profile (see column 15, lines 14-19), including user demographics. Both Roth and Bull are concerned with effectively profiling users, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include inferring user demographics based on web sites visited in Roth, as seen in Bull, thereby increasing the flexibility and robustness of the Roth system in determining the profiles of its users.

As per claim 57, Roth et al disclose the content comprises advertisements (see column 4, lines 58-61)

As per claim 62, Roth et al does not explicitly disclose adjusting the target group to optimize user responsiveness to the content (see column 13, lines 53-64). By adjusting the criteria in Roth et al, the target group is adjusted accordingly.

As per claim 63, Roth et al disclose an advertisement, and determining user responsiveness to the content comprises determining how many users have clicked-through the advertisement (see column 2, lines 41-46).

Claims 3-6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975).

As per claims 3-6, neither Roth et al nor Bull et al explicitly disclose including the user's age, gender, income, and highest attained education level. However, Roth discloses Web site demographics data (see column 9, lines 13-14), and it is old and well known that age, gender, income, and highest attained education level are demographic attributes, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include those attributes as part of the demographic information collected in Roth et al, thereby collecting more information on the customer, thus determining a more accurate profile.

As per claim 10, neither Roth et al nor Bull et al disclose said database provided by a Web site ratings service. However, Roth et al disclose Web site demographic data collected from commercial sources (see column 18, lines 51-53), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a database provided by a Web site rating service in Roth et al, thereby providing a profile of the Website and more accurately determining the consumer profile.

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Sheena et al (USPN 6,049,777).

As per claims 15 and 18, neither Roth et al nor Bull et al disclose combining the profiles of the Web sites accessed by the user to the existing user profile using an averaging algorithm and the average rating is determined using a clustering

algorithm. Sheena et al disclose using an averaging algorithm to calculate a similarity factor between a pair of users (see column 8, lines 47-49), based on their ratings of a product. Sheena et al also disclose clustering algorithms (see column 22, lines 33-36) used to calculate the mean of the rating given to each item a user has rated. Sheena et al also disclose the method working equally as well for items having many features of interest (see column 19, lines 9-13), such as web site and user profiles. Further, both Roth et al and Sheena et al are concerned with user profiles, and product recommendation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include using an averaging algorithm to combine the profiles of the web site and user and determining the average rating using a clustering algorithm in Roth et al, thereby improving the profile of the user, thus providing more targeted advertisement.

As per claims 16-17, neither Roth et al nor Bull et al disclose user profile includes data on a plurality of demographic categories, each associated with a rating, and the method further comprises filling in a value for the rating for any demographic category having a low confidence measure and using an average rating of persons having similar profiles to that of said user for a category having a low confidence measure. Sheena et al disclose using an averaging algorithm to calculate a similarity factor between a pair of users (see column 8, lines 47-49), based on their ratings of a product. Further, Sheena et al disclose items with low confidence factors (see column 10, line 10), and correlation between neighboring users (see column 10, lines 20-23). Both Roth et al and Sheena et al are concerned with user

profiles, and product recommendation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include filling in a value for the rating for any demographic category having a low confidence measure and using an average rating of persons having similar profiles to that of said user for a category having a low confidence measure, in Roth et al, thereby being able to fill in incomplete user profiles, thus making the method more robust.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Eldering (USPN 6,298,348).

As per claim 19, neither Roth et al nor Bull et al explicitly disclose erasing records of which Web sites said user has visited after developing the user's profile to protect user privacy. Eldering discloses maintaining consumer privacy via private data networks (see column 4, lines 62-65). Both Roth and Eldering are concerned with consumer demographic information collection, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining consumer privacy in Roth et al, as seen in Eldering, via deletion of records, thus securing consumer privacy making the system more effective.

Claims 21 and 58-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Park et al (USPN 6,295,061).

As per claims 21 and 58-59, neither Roth et al nor Bull et al disclose transmitting pop-up and banner advertisements to a display of a computer operated by the user. Park et al disclose banner advertisement (see column 1, lines 30-33), and pop-up advertisement over the internet (see column 2, lines 1-2). Both Roth et al and Park et al are concerned with effective advertising via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include pop-up and banner advertisement in Roth et al, as a means of reaching the consumer to provide information on a product.

As per claim 60, Roth et al disclose means for monitoring how long the advertisement is displayed to the user (view-time, see column 8, lines 61-62).

As per claim 61, Roth et al disclose means for monitoring whether the user has clicked-through the advertisement (see column 8, lines 1-2).

Claim 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987), in view of Bull et al (USPN 6,208,975), in further view of Haitsuka et al (USPN 6,366,298).

As per claim 25, neither Roth et al nor Bull et al disclose the program including a sniffer identifying URL requests made by the user while Web surfing. Haitsuka et al discloses a client monitoring device that grabs URL's from communication stream between the browser and web server (i.e., sniffer, see column 8, lines 56-60). Both Roth and Haitsuka are concerned with the effective monitoring of on-line viewers, therefore it would have been obvious to one having ordinary skill in the art at the

time the invention was made to include a sniffer in Roth, as seen in Haitsuka, as an effective method of obtaining the viewers URL requests, thus making the Roth system more efficient.

(10) Response to Argument

In the Appeal Brief, Appellant argues that 1) neither Bull nor Roth disclose or in any way suggest developing a profile of the user by inferring demographics of the user based on the profiles of the Web sites accessed by the user, 2) Bull does not disclose or suggest the URL requests made by the user identified at an ISP point of presence, and 3) Roth provides no teaching or suggestion that the computer for profiling a Web user is an ISP point of presence server.

With respect to argument 1, the Examiner respectfully disagrees. Bull et al disclose profiles entered by the consumer explicitly *or* collected through analysis of online session activity implicitly (see column 1, lines 53-56), wherein the user profile 210 is defined as containing data about the user, including preferences, psychographic information, personal information and other relevant information related to the user (column 10, lines 60-67). Bull et al goes on to disclose that the automated profile generation will have *both* explicit profile information gathering and implicit profile information gathering techniques (column 5, lines 27-29). As such, Bull et al indeed discloses developing a profile of the user by inferring demographics of the user based on the profiles of the Web sites accessed by the user.

In addition, Appellant asserts that the term "demographic data" is mentioned only with reference to the prior art, and thus the "demographic data" described by Bull is clearly not inferred, but simply a set of given data that is added to user profiles (Appeal Brief, page 13, 3rd full paragraph). Respectfully, Appellant's interpretation of Bull et al is incorrect. Appellant has simply described the prior art method of collecting profile information. Bull et al distinguishes his invention, by disclosing that in the present invention, the searching patterns of the user on the Internet are monitored, wherein the automated profile generation will have both explicit profile information gathering and implicit information gathering capabilities (column 5, lines 24-29).

With respect to argument 2, the Examiner respectfully disagrees. The Examiner submits that Roth et al discloses Internet protocol (IP) data including viewer URL's (see column 8, lines 20-28), stored in table 408 (see figure 4), wherein the URL request is necessarily identified at the ISP point of presence via the IP address. Further, Roth et al discloses the user 10 utilizing a client browser 11 to access a web page 12 on a web site 14, wherein the client browser 11 could be one of the commercially available web browsers, for example Netscape Navigator, i.e., ISP point of presence (column 3, lines 33-46).

With respect to argument 3, the Examiner respectfully disagrees. As discussed with respect to argument 2, Roth et al discloses the user 10 utilizing a client browser 11 to access a web page 12 on a web site 14, wherein the client browser 11 could be one of the commercially available web browsers, for

example Netscape Navigator, i.e., ISP point of presence (column 3, lines 33-46). As such, client browser 11 is indeed an ISP point of presence.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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October 30, 2005

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